



FedFin Daily Briefing

Thursday, December 22, 2022

Waters Blasts ICE/BKI Merger

Although HFSC Chair Waters (D-CA) frequently opposes large-bank mergers, her [stand](#) today against the ICE/Black Knight deal is the first time we can recall her taking a public stand on a transaction before the Federal Trade Commission (outside HFSC's jurisdiction). In a letter to FTC Chair Khan, Chairwoman Waters argued that the transaction will not only decrease competition, but also raise the cost of home ownership. Mortgage-market conditions are of course directly in her jurisdiction as are agencies such as FHFA that could play a significant role in this transaction. Rep. Waters focuses in particular on mortgage-servicing and -pricing market power, but also notes risk to consumer data and small mortgage companies. Based on these concerns, the chairwoman notes numerous questions she urges the FTC to consider as it reviews this transaction, also asking it to consult with the Fed on systemic risk and CFPB on many considerations. No deadline for an answer is given.

Toomey Sets Agenda for GOP Fed Reform

Among his parting shots, Senate Banking Ranking Member Toomey (R-PA) [yesterday](#) introduced legislation to reform the Federal Reserve System. Although joined by six Republicans, these do not include Sen. Tim Scott (R-SC), who is likely to succeed Mr. Toomey as ranking in the new Congress. And, while Sen. Toomey's Fed-transparency bill enjoys Democratic [support](#), it remains to be seen if some parts of this bill do and, even were that the case, if Chairman Brown (D-OH) makes them a priority.

Toomey Also Tries to Set Stablecoin Agenda

In another effort to set the terms of debate before he departs, Senate Banking Ranking Member Toomey (R-PA) also [introduced](#) a new version of his initial stablecoin legislation ([see FSM Report CRYPTO27](#)). In contrast to the Fed-reform measure noted in an earlier client alert, the stablecoin bill lacks cosponsors, a significant indicator that other Republicans plan to pursue their own initiatives. So far, the most prominent among these is the Lummis-Gillibrand bill ([see FSM Report CRYPTO28](#)) set for a rewrite and then reintroduction in the next Congress. Still, at least some of the Toomey bill's proposals could be incorporated in these bills, with the most likely among these giving stablecoin owners priority in bankruptcy proceedings. Continued efforts to strip the SEC's crypto authority will face determined Democratic opposition as will other sections in the new Toomey bill limiting federal regulation.

Warren Doubts Zelle's Fraud Policy Changes

Continuing her [campaign](#) against Zelle fraud, Sen. Warren (D-MA) today sent a [letter](#) to the CEO of Zelle's parent company demanding a briefing on pending efforts to compensate consumers for fraudulent transfers. Noting what she calls an "unwillingness" of EWS and the Big Banks that operate Zelle to cooperate with lawmakers, she doubts that these changes will ensure transaction transparency and provide clear pathways for consumer recourse. She also wants to know if all banks using Zelle will adhere to any new agreement, a question likely due to [reports](#) that small banks are unwilling or unable to provide this compensation. The Senator asks for a detailed briefing of the proposed changes, whether increased user refunds will apply retroactively, the

estimated costs for participating banks, and how the company plans to cooperate with the CFPB and FDIC. A deadline of January 9 is set.

CFPB Cites ARM Risks, Rewards

The CFPB today issued a [consumer alert](#) describing the risks associated with various mortgage products during a period of rising interest rates. Although the brief has no policy content, it focuses on risks and advantages to consumers for ARMS, temporary buydowns, HELOC, loan assumptions, and alternative sale transactions. During his testimony before Congress last week ([see Client Report CONSUMER45](#)), Director Chopra indicated little concern over the resurgence of ARMS because he believes most of them still follow the ability-to-repay standard and the qualified mortgage rule, noting also that risks are not at pre-GFC-levels.

Project Hamilton Ducks CBDC-Feasibility Decision

The Federal Reserve Bank of Boston today [announced](#) the completion of its Project Hamilton work with MIT on a U.S. CBDC. Although the project was framed as determining CBDC feasibility and the concluding statement says this was done, the release only reports technical results such as the successful implementation of a core processing engine codebase that supports instant settlement and the ability to add scaling functionalities. The researchers view the project's results as a model that can guide CBDC policy decisions and further research on the future of money.

Fed to Reconsider Key Bank-Control Criteria

Although the banking agencies today [reiterated](#) that their policy is not generally to require reporting of loans to potentially controlling principal-fund complexes or banks that meet passivity requirements, the Fed will now reconsider relevant rules in this sector. As a result, the current safe-haven lasts only until January 1, 2024 or any earlier date at which the Fed lays out new policy. This statement appears to respond to suggestions in a recent GOP report on asset-management ESG [activities](#) suggesting that funds with large shareholder positions in a bank exercise control and thus should be considered bank holding companies – a designation that of course has far-reaching strategic impact for any nonbank entity. It is unclear if the Fed review of relevant Reg O provisions will be confined only to extensions of credit or tackle the larger underlying issue, which has previously led to concerns about systemic levels of bank and asset-management inter-connectedness ([see FSM Report ASSETMANAGEMENT](#)).

Recent Files Available for Downloading

The following reports and analyses have been sent to retainer clients recently. Copies are also available to retainer clients on the Archives section of Federal Financial Analytics' website: www.fedfin.com or clients may obtain the reports/analyses by e-mailing info@fedfin.com giving the requested item name, firm, and e-mail address. To learn more about *GSE Activity Reports*, click [here](#).

- **CONSUMER47:** The CFPB is proposing to create a public registry of certain enforcement actions that would initially cover nonbanks (including BHCs) with a goal of drawing public and enforcement-agency attention to what the Bureau's director calls "serial offenders."

- **[GSE-122122](#)**: Finally taking what was supposed to be an “interim” [final rule in 2009](#), FHFA yesterday finalized a variation on Mark Calabria’s 2020 new-product [proposal](#).
- **[CONSUMER46](#)**: In this report, we provide an in-depth assessment of the CFPB’s unprecedented \$3.7 billion [settlement](#) earlier today with Wells Fargo (WFC).
- **[FSOC28](#)**: [As promised](#), this FedFin report provides an in-depth analysis of FSOC’s 2022 [annual report](#), focusing on findings with near-term policy implications.
- **[GSE-121922](#)**: [As promised](#) Friday when FSOC’s [annual report](#) was released, we here go into depth on its implications for residential housing.
- **[CONSUMER45](#)**: Despite early warm goodbyes to outgoing Chairwoman Waters (D-CA), GOP members wasted no time trading blows at a fiery HFSC session today with CFPB Director Chopra.
- **[CRYPTO36](#)**: Senate Banking Committee Chairman Brown (D-OH) today backed away from prior statements about crypto legislation, focusing instead on the prospect of additional investigations into failing crypto firms and ongoing work with Secretary Yellen on a government-wide regulatory framework.
- **[CLIMATE15](#)**: Following the pattern set in 2021 by the OCC, the FRB has now proposed climate risk-management standards as high-level principles to guide banking organizations with assets over \$100 billion.
- **[GSE-120522](#)**: Making an important addition to the ongoing debate about Treasury-market liquidity, a new [paper](#) from the Bank for International Settlements provides sobering data on agency MBS liquidity with significant implications not only for secondary-market liquidity, but also primary-market stability.
- **[CRYPTO35](#)**: In the first Congressional review of crypto since the collapse of FTX, Senate Agriculture leadership largely defended the bill they produced, S.4760.
- **[CONSUMER44](#)**: Reviving what it calls “dormant” authority, the CFPB has finalized a proposed “procedural rule” expressly reiterating its right to govern an array of nonbanks and establishing procedures for making supervisory orders public.